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# HOUSE BILL No. 1929

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## DIGEST OF INTRODUCED BILL

**Citations Affected:** IC 36-8.1.

**Synopsis:** Firefighters relief associations. Allows firefighters relief associations to be established. Requires the greater of 10% or \$20,000,000 of the insurance premium tax to be transferred annually to local units for transfer to firefighters relief associations. Requires a local unit whose volunteer fire department is a member of a fire relief association to establish a local firefighters relief association fund to receive distributions from the insurance premium tax. Provides that the purposes of a local firefighters relief association include: (1) purchasing insurance policies to provide the coverage required by statute and additional coverage as determined by the association; (2) providing financial assistance to the family of a deceased firefighter who dies as a result of injuries incurred while in the course of duty; (3) providing funds for the physical rehabilitation of a firefighter; (4) providing death benefits; and (5) providing financial assistance to a disabled firefighter. Requires a fire department that receives funds from a local firefighters relief association to comply with the National Fire Incident Reporting System requirements.

**Effective:** July 1, 2001.

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**Oxley**

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January 17, 2001, read first time and referred to Committee on Ways and Means.

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Introduced

First Regular Session 112th General Assembly (2001)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2000 General Assembly.

## HOUSE BILL No. 1929

A BILL FOR AN ACT to amend the Indiana Code concerning local government.

*Be it enacted by the General Assembly of the State of Indiana:*

1 SECTION 1. IC 36-8.1 IS ADDED TO THE INDIANA CODE AS  
2 A **NEW** ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,  
3 2001]:

### 4 ARTICLE 8.1. FIREFIGHTER RELIEF ASSOCIATIONS

#### 5 Chapter 1. Definitions

6 Sec. 1. The definitions in this chapter apply throughout this  
7 article.

8 Sec. 2. "Account" refers to the state firefighters relief  
9 association account established under IC 36-8.1-10.

10 Sec. 3. "Association" refers to a firefighters relief association  
11 established under IC 36-8.1-2.

12 Sec. 4. "Fire department" means a volunteer fire department  
13 that renders fire prevention or fire protection services to a unit.

14 Sec. 5. "Firefighter" means a person who is a volunteer  
15 firefighter (as defined in IC 36-8-12-2).

16 Sec. 6. "Fiscal body" has the meaning set forth in IC 36-1-2-6.

17 Sec. 7. "Fiscal officer" has the meaning set forth in IC 36-1-2-7.

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1       Sec. 8. "Legislative body" has the meaning set forth in  
2       IC 36-1-2-9.

3       Sec. 9. "Local fund" refers to a local firefighters relief  
4       association fund established under IC 36-8.1-4.

5       Sec. 10. "Obligation" has the meaning set forth in  
6       IC 27-1-12-2(25).

7       Sec. 11. "Premium tax" means a premium tax imposed under  
8       IC 27-1-18-2.

9       Sec. 12. "Unit" means a city, town, or township.

10      Sec. 13. "Volunteer fire department" has the meaning set forth  
11      in IC 36-8-12-2.

12      Chapter 2. Establishing a Firefighters Relief Association

13      Sec. 1. Firefighters relief associations may be established under  
14      this chapter for the purposes set forth in section 3 of this chapter.  
15      A firefighters relief association must be established as a nonprofit  
16      corporation.

17      Sec. 2. A firefighter who is a member of a fire department may  
18      be a member of an association subject to fulfilling the requirements  
19      of membership as set out in the association's bylaws.

20      Sec. 3. An association shall have the following purposes:

21          (1) To purchase insurance policies that fulfill the  
22          requirements of IC 36-8-12 and this article.

23          (2) To provide financial assistance to the surviving spouse,  
24          children, and other dependents of a firefighter who dies as a  
25          result of an injury incurred in the scope of the firefighter's  
26          duties with the fire department.

27          (3) To provide, either by insurance or by the operation of a  
28          beneficial fund, for the payment of a sum certain to the  
29          designated beneficiaries of a participating member in the fund  
30          following the death of the participating member from any  
31          cause.

32          (4) To establish criteria that firefighters must meet in order  
33          to qualify as participants in a death benefit fund described in  
34          subdivision (3).

35          (5) To provide financial assistance to a firefighter who, after  
36          having served as a firefighter for a specified term, is no longer  
37          physically able to continue as a firefighter and is in need of  
38          financial assistance.

39          (6) To provide funds to aid the rehabilitation of a firefighter  
40          who has suffered an impairment of physical capacity, so that  
41          the firefighter can resume the firefighter's duties as a  
42          volunteer firefighter.

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(7) To provide sufficient funds to ensure the efficient and economical handling of the business of the association in accomplishing the objectives as set forth in this article.

### **Chapter 3. Expenditure and Investment of Association Funds**

**Sec. 1.** An association may solicit and receive gifts and contributions from any source.

**Sec. 2.** The funds of an association may be deposited in a bank, a trust company, or other banking establishment chartered, incorporated, licensed, or organized under Indiana law or the law of the United States that:

- (1) does business in Indiana; and
- (2) is insured by the Federal Deposit Insurance Corporation, the Savings Association Insurance Fund, the National Credit Union Administration, or an alternative insurer.

**Sec. 3.** All or part of the funds of an association may be invested in:

- (1) an obligation of a political subdivision (as defined in IC 36-1-2-13) in Indiana.
- (2) an obligation of a fire department that is:
  - (A) secured by assets of the fire department having capital value equal to at least one hundred fifty percent (150%) of the amount of the obligation at the time it is made; and
  - (B) subject to provisions that amortize the loan at a rate ensuring that the depreciated value of the assets pledged shall continue to be at least equal to one hundred fifty percent (150%) of the remaining balance due on the loan.

**Sec. 4. (a)** The association may invest or reinvest funds that are held by the association and available for investment in investments commonly known as money market mutual funds that are in the form of securities of, or interests in, an open-end, no-load, management-type investment company or investment trust registered under the federal Investment Company Act of 1940, as amended (15 U.S.C. 80a et seq.).

**(b)** The investments described in subsection (a) may not exceed fifty percent (50%) of the funds held by the association and available for investment.

**(c)** The portfolio of an investment company or investment trust described in subsection (a) must be limited to the following:

- (1) Direct obligations of the United States.
- (2) Obligations issued by any of the following:
  - (A) A federal agency.
  - (B) A federal instrumentality.



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(C) A federal government sponsored enterprise.

(3) Repurchase agreements fully collateralized by obligations described in subdivision (1) or (2).

(d) The form of securities of or interests in an investment company or investment trust described in subsection (a) must be rated as one (1) of the following:

(1) AAAM, or its equivalent, by Standard and Poor's Corporation or its successor.

(2) Aaa, or its equivalent, by Moody's Investors Service, Inc. or its successor.

(e) The form of securities in an investment company or investment trust described in subsection (a) is considered to have a stated final maturity of one (1) day.

(f) The state board of accounts may rely on transaction confirmations evidencing ownership of the form of securities of or interests in an investment company or investment trust described in subsection (a).

Sec. 5. For an association to acquire, encumber, or sell an investment, the investment must be acquired, encumbered, or sold as set forth in a resolution adopted by the governing body of the relief association.

Sec. 6. The funds of an association may be spent as follows:

(1) To pay for normal and reasonable operating expenses of the association, including:

(A) legal fees;

(B) the purchase and rental of:

(i) offices; and

(ii) office equipment and supplies; and

(C) the compensation of necessary employees.

(2) To pay the cost of an audit by the state board of accounts under IC 36-8.1-7.

(3) To purchase contracts of insurance that fulfill:

(A) the requirements of IC 36-8-12; and

(B) the purposes of the association, as set forth in IC 36-8.1-2-3, that are not met by the requirements of IC 36-8-12, including providing for:

(i) financial assistance to an active member of a fire department represented by the association for bodily injury or property damage resulting from the firefighter acting within the scope of the firefighter's duties with the fire department;

(ii) payments to a firefighter's surviving spouse, children,

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or other dependents in the event a firefighter's dies as a result of the firefighter acting within the scope of the firefighter's duties with the fire department; and  
 (iii) the purchase or repair of prosthetic devices, including visual aids, hearing aids, dentures, braces, or crutches, if the device is necessary because a firefighter suffered bodily injury caused by the firefighter acting in the scope of the firefighter's duties or because the firefighter needs a prosthetic device due to functional impairment that is attributable to a firefighter's duties with the fire department;

(4) To purchase contracts of insurance for disability incurred by a firefighter after the firefighter has served with a fire department for at least twenty (20) years.

(5) To maintain a beneficiary or death benefit fund and to pay a sum certain from that fund:

(A) to the beneficiary of any participant in that fund, upon the participant's death; or

(B) if a beneficiary is not designated or a designated beneficiary has predeceased the participant, to the estate of the participant.

(6) To pay in full or in part for damage or loss set forth in subdivision (3) or (4) in any case in which:

(A) a policy of insurance is not in force that covers the risk; or

(B) the amount payable under insurance policies in force is inadequate to cover the loss.

(7) To pay the costs of procuring and forwarding tokens of sympathy and goodwill to a firefighter or the firefighter's family if the firefighter:

(A) is ill or hospitalized as a result of the firefighter's duties; or

(B) dies or is seriously ill for any reason.

(8) To make cash payments to a firefighter's family if the family is in distressed financial circumstances because the firefighter has suffered a disability received in the course of the firefighter's duties with the fire department.

(9) To:

(A) acquire and maintain membership in any statewide organization, association, or corporation that extends advice and assistance to firefighters relief associations in the conduct of the associations' affairs; and

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(B) pay reasonable expenses of travel and maintenance to a duly elected delegate for attendance at the meetings of the statewide organization, association, or corporation.

(10) To contribute or purchase contracts of insurance that will contribute towards the cost of rehabilitating and retraining a firefighter, who by reason of the firefighter's duties with the fire department, has suffered a major impairment of the firefighter's ability to continue in the firefighter's normal duties.

(11) To pay for medical and surgical bills arising from injuries sustained by a firefighter while engaged in the scope of the firefighter's duties with the fire department, to the extent that the bills are not covered by insurance.

(12) To pay reasonable expenses actually and necessarily incurred for attending firefighter training schools.

#### **Chapter 4. Local Firefighters Relief Association Fund**

##### **Sec. 1. If:**

- (1) an association is formed under this article; and
- (2) the fire department that serves a unit is represented by the association;

the fiscal body of the unit shall establish a local firefighters relief association fund.

**Sec. 2.** The fiscal officer of a unit that establishes a local firefighters relief association fund under section 1 of this chapter shall deposit in the local fund all amounts received from the treasurer of the state under IC 36-8.1-9.

**Sec. 3.** Any money earned from the investment of money in a local fund becomes a part of the local fund.

**Sec. 4.** Money in a local fund shall be distributed under IC 36-8.1-11-3 and IC 36-8.1-11-4 to the association serving the fire departments engaged in the service of the unit that established the fund.

**Sec. 5.** A unit may not coordinate any current, approved, or future financial distributions with any received association funds.

#### **Chapter 5. Reporting Requirements**

**Sec.1.** A fire department that accepts funds from an association must comply with the National Fire Incident Reporting System (NFIRS) requirements. The department shall submit incident reports to the office of the state fire marshal.

**Sec. 2.** A fire department that fails to comply with the National Fire Incident Reporting system (NFIRS) requirements shall not receive the fire department's annual distribution from the local

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fund in the year following the noncompliance.

Sec. 3. Any funds that are not distributed to a fire department because of the fire department's ineligibility to receive the funds under section 2 of this chapter shall be deposited in the account.

#### Chapter 6. Cooperation Agreements

Sec. 1. Two (2) or more associations may jointly cooperate to enter into agreements to make expenditures authorized under this article.

Sec. 2. A joint cooperation agreement entered into under section 1 of this chapter may be enforced by and against an association.

#### Chapter 7. Audit by State Board of Accounts

Sec. 1. The handling and expenditure of funds received by an association from a unit shall be subject to audit and supervision by the state board of accounts.

Sec. 2. The association shall pay the cost of the audit.

Sec. 3. Copies of an audit shall be furnished to the directors of the association and the governor.

Sec. 4. If the state board of accounts finds that any money received by an association has been expended for any purpose other than those authorized by this article:

(1) the board shall notify the governor; and

(2) the unit shall not transfer any money from the local fund to the association until an amount equal to the amount improperly expended by the association is reimbursed to the local fund.

#### Chapter 8. Dissolution

Sec. 1. If a fire department is a member of an association, and the fire department ceases to render fire services to a community, the fire department shall withdraw from the association.

Sec. 2. If the membership of an association is reduced to five (5) individual members:

(1) the association shall cease to receive new members;

(2) the association shall be dissolved under IC 23-17; and

(3) the court conducting or supervising the dissolution, if any, shall direct that all bills, including the costs of dissolution, be paid and the balance of the funds in the treasury be paid into the state firefighters relief association account established by IC 36-8.1-10.

#### Chapter 9. Premium Tax Distribution

Sec. 1. The amount of premium tax revenue that must, under IC 36-8.1-11, be distributed from the firefighters relief association account established under IC 36-8.1-10 to a local fund established

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by a unit under IC 36-8.1-4 shall be paid annually by the treasurer of state to the unit's local fund upon warrants issued by the auditor of state.

**Chapter 10. State Firefighters Relief Association Account**

**Sec. 1.** The state firefighters relief association account is established within the state general fund.

**Sec. 2.** The treasurer of state shall deposit in the account each state fiscal year the greater of the following:

- (1) Twenty million dollars (\$20,000,000); or
- (2) Ten percent (10%);

of the amount collected by the state from the premium tax.

**Chapter 11. Distribution of Fire Relief Association Funds**

**Sec. 1.** The state treasurer shall annually distribute from the state firefighters relief association account established by IC 36-8.1-10 to each unit that establishes a local firefighters relief association fund under IC 36-8.1-4, for deposit in the local fund, an amount determined under section 2 of this chapter.

**Sec. 2.** (a) Except as provided in subsections (b) and (c), in each fiscal year a unit may receive from the account an amount that does not exceed the amount determined in STEP SEVEN of the following formula:

**STEP ONE:** Calculate the quotient of fifty percent (50%) of the amount deposited in the account under IC 36-8.1-10-2 divided by the total population of the state as determined by the last decennial census. This quotient is the amount of premium tax funds available to be distributed per person in the state.

**STEP TWO:** Calculate the quotient of fifty percent (50%) of the amount deposited in the account under IC 36-8.1-10-2 divided by the total state market value of real estate. This quotient is the amount of premium tax funds available to be distributed per dollar of real estate market value in the state.

**STEP THREE:** Calculate the product of the population of the unit multiplied by the quotient calculated in STEP ONE. If the unit is a township, the population of the township is the population of the township minus the population of any part of a city or town that is located within the township.

**STEP FOUR:** Calculate the product of the market value of the real estate of the unit multiplied by the quotient calculated in STEP TWO. If the unit is a township, the market value of the real estate of the township is the market value of the real estate of the township minus the market value of any real

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estate that located within any part of a city or town that is located within the township.

**STEP FIVE:** Calculate the sum of the product calculated in STEP THREE added to the product calculated in STEP FOUR.

**STEP SIX:** Calculate the average of the distributions received by the unit in the three (3) years preceding the current year's distribution.

**STEP SEVEN:** Determine the greater of the following:

(1) The sum calculated in STEP FIVE.

(2) The average calculated in STEP SIX.

(b) If there is insufficient money in the account to distribute to the units the amount determined for all units in STEP SEVEN, the amount distributed to the units shall be reduced as set forth in subsections (c) and (d).

(c) If there is insufficient money in the account to distribute to each unit the sum calculated in STEP FIVE, each unit shall receive the sum calculated in STEP FIVE, reduced by a percentage that is uniform to all the units and sufficient to prevent a deficit in the account.

(d) If there is sufficient money in the account to distribute to each unit the sum calculated in STEP FIVE, but insufficient money in the account to distribute to all units entitled under STEP SEVEN to receive the average calculated in STEP SIX:

(1) a unit entitled under STEP SEVEN to receive the average calculated in STEP SIX, shall receive the amount in STEP SIX reduced by a percentage uniform to all units entitled to receive the average calculated in STEP SIX, and sufficient to prevent a deficit in the account; and

(2) a unit entitled under STEP SEVEN to receive the sum calculated in STEP FIVE shall receive the sum calculated in STEP FIVE.

**Sec. 3.** Not later than sixty (60) days after the treasurer of state transfers the amount determined under section 2 of this chapter to the local fund, the unit shall transfer the amount received to the association serving the fire departments engaged in the service of the unit.

**Sec. 4.** An association shall receive annually from the local fund established under IC 36-8.1-4:

(1) at least five thousand dollars (\$5,000); and

(2) not more than fifty thousand dollars (\$50,000).

**Sec. 5. (a)** The association shall allocate the distribution received

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1 from the local fund to benefit each fire department that serves the  
2 unit.

3 (b) The association shall allocate to a fire department the  
4 proportion of the total distribution that is equivalent to the  
5 proportion of the total fire protection service to the unit that the  
6 fire department provides.

7 Sec. 6. Any balance left in the local fund after the distributions  
8 made in section 3 of this chapter shall be transferred to the state  
9 account.

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